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A PROFESSIONAL LIMITED LIABILITY COMPANY

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December 7, 2005

VIA HAND DELIVERY

Director Deborah Taylor Tate
c/o Sharla Dillon, Dockets Manager
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243-00505

Re: *Generic Docket for the Purpose of Examining TRA Rules, Policies and Procedures in Light of Current Trends in Gas Industries, Docket No 05-00046*

Dear Director Tate

Chattanooga Gas Company ("CGC" or "Company") agrees and supports the comments and recommendations that you made at the November 21, 2005 Conference and filed in the Generic Docket (05-00046) on December 2, 2005, concerning certain rules and procedures of the Tennessee Regulatory Authority ("TRA" or "Authority") and consumer and safety issues that have been addressed in the Generic Docket. The Company continues, however, to have concerns regarding the lack of opportunity for the parties in a rate proceeding or other contested case to review Staff's recommendations and provide comments to the Authority prior to its ruling on a disputed matter.

As you are aware, rate case proceedings and other contested cases include complex issues and facts that can easily be misunderstood or misinterpreted. Under the current practice, Staff provides final recommendations and analysis of the facts and issues to the Directors. Since these recommendations are not available to the parties for review or comment, there is no opportunity to address any misunderstandings or misinterpretations prior to the Authority's rendering of a decision. Full disclosure of Staff's recommendations and the basis for their conclusions will best protect the public's interest and ensure that consumers are paying a fair and reasonable rate to utilities.

In an effort to address this concern, as well as other recommendations made in your December 2, 2005 filing, the Company submits the following comments and proposals

(1) Submission of Proposed Orders – The Authority should adopt a rule to require, or should at least engage in the practice of requiring, procedural orders be issued within thirty days of the establishment of a contested case. Such procedural orders should include the requirement that all parties in a rate proceeding or other contested case, including Staff when acting as an adversary party, file proposed orders or briefs at the discretion of the Authority, within 15 days of the close of the hearing. The other parties should be given the opportunity to file comments regarding the submitted proposed orders or briefs within 10 days of the submission of the proposed orders. This is the practice that currently exists in other states, including Georgia. In addition, the advisory staff should be required to file a summary of their recommendations and the basis thereof, at least ten days before the conference agenda wherein the Authority will decide the case. The parties should be allowed to respond within five days of the filing to the extent there are any misunderstandings or misinterpretation of facts or the appropriate legal standard to be applied.

Further, the Authority should adopt a rule or policy to require Staff to intervene as a party in all contested case proceedings, including rate proceedings, and the procedural order should designate which Staff members are acting as an adversary party and which members are acting in an advisory role. It is the general practice in other states such as Georgia that have staff performing split roles as adversaries and advisors in contested cases to require staff to participate as parties in significant contested cases. Requiring the Staff to intervene as a party in all contested cases will eliminate some of the confusion that has been raised by the utilities in the Generic Docket regarding designating and knowing when Staff is functioning in an advisory or adversarial role.

By establishing a procedural order that requires the parties to submit proposed orders and the advisory staff to file a summary of their recommendations, the Authority will ensure that contested cases reach a prompt, final resolution. Parties will be better able to identify and address when there are misunderstandings of the facts or issues prior to the issuance of a decision, rather than having to file for reconsideration, which can be a difficult and time consuming process. It is better policy and practice to allow the parties to clarify any misunderstandings or errors up front rather than at the conclusion of the contested case proceeding. While the final written order that is issued by the Authority and its scope and analysis remain within the discretion of the Authority, the establishment of a procedural order and the submission of proposed orders will assist the Authority in efficiently issuing final written orders to resolve the disputed matters and will ensure that the Authority has adequate time to review the record before issuing a final order.

To summarize, CGC advocates that the Authority adopt a rule or policy that requires procedural orders to be issued thirty days after a contested case is convened and the orders should include the following:

- Designation of which Staff is acting as adversary staff and which is acting as advisory staff;
- All parties, including adversary staff, file proposed orders or briefs at the discretion of the Authority, within fifteen days of the conclusion of the hearing;
- All parties may respond to proposed orders or briefs within ten days,
- Advisory staff shall file a summary of its recommendations and the basis thereof at least ten days before the conference agenda at which the Authority is scheduled to decide the case, and
- Parties may respond to the summary within five days of the filing to the extent there are any misunderstandings or misinterpretation of facts or the appropriate legal standard to be applied

(2) Proprietary Information and Confidentiality – CGC agrees that the Authority should not have to convene a contested case for the sole purpose of preserving the confidentiality of proprietary information that has been requested by, or that the utility is required to file with, the Authority. We understand that Staff believes that, because of the Tennessee Public Records Act, T.C.A. §§ 10-7-101 *et seq*, the Authority is unable to issue protective orders outside of contested case proceedings. However, CGC supports both the written comments filed on July 1, 2005, and the oral comments made at the July 18, 2005 meeting by Atmos which set forth the analysis for preserving the confidentiality of proprietary information under the Tennessee Trade Secrets Act, T.C.A. §§ 47-25-1701 *et seq*, without violating the Tennessee Public Records Act. Accordingly, we urge the Authority to adopt either procedures or a rule similar to the Georgia Public Service Commission (GPSC) trade secret rule that will protect trade secret information outside the context of a contested case. A copy of the GPSC rule is attached.

(3) Safety. Pipeline Replacement – CGC supports the comments and recommendations regarding the development and implementation of a pipeline replacement tracker for gas companies that will effectuate timely and efficient pipeline replacement and remove the need for frequent rate case proceedings

(4) Service Quality Standards – CGC continues to be concerned about voluntary reporting procedures. Service quality reporting, whether formal or voluntary,

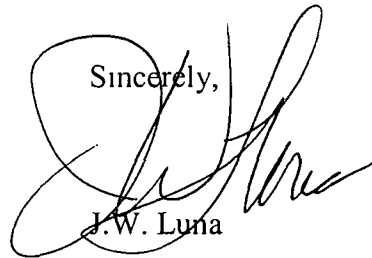
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causes an administrative burden and raises costs to customers. As it has been pointed out, the TRA receives relatively few complaints about the gas companies. Accordingly, CGC does not believe that voluntary reporting procedures are warranted at this time

The Company appreciates your efforts to establish this process in which the industry, the Authority, the Staff, the Consumer Advocate, and other interested parties can look at emerging trends in the natural gas industry and evaluate whether the current TRA procedures and processes best accommodate these trends. Please feel free to contact me to discuss this further

Sincerely,

A handwritten signature in black ink, appearing to read 'J.W. Luna', is written over the typed name. The signature is fluid and cursive.

J.W. Luna

Enclosure

cc Steve Lindsey
Archie Hickerson
Elizabeth Wade, Esq.
L Craig Dowdy, Esq

515-3-1-.11 Trade Secrets.

(1) In the event that any party or utility subject to the jurisdiction of the Commission is required to file with the Commission, or otherwise requested to provide to the Commission staff information which that party or utility considers to be a trade secret (as defined in O.C.G.A. Section 10-1-761(4)) (hereinafter referred to as "protected information"), then the following procedures shall apply:

(a) The affected party or utility shall submit, within the time specified or agreed to, the required or requested protected information under protective seal with the designation "TRADE SECRET" prominently attached to each page thereof; and

(b) The affected party or utility shall, at the same time, provide a version of the document containing protected information which can be used for public disclosure with the designation "PUBLIC DISCLOSURE DOCUMENT" prominently attached to each page thereof; and

(c) The affected party or utility shall, at the same time, provide in writing the legal and factual basis for its assertion that the protected information is a trade secret and should not be disclosed, including, for each item claimed to be a trade secret:

1. Why the information derives economic value from not being generally known to others;

2. How others can obtain economic value from its disclosure; and

3. Procedures utilized by the affected party or utility to maintain its secrecy; and

(d) The affected party or utility shall maintain a master list of all documents submitted to the Commission pursuant to this rule, which list shall identify the document submitted, the number of copies submitted, and, if applicable, the docket in connection with which submission was made.

(2) Upon request by any person pursuant to the Georgia Open Records Act, O.C.G.A. Section 50-18-70, et seq , for access to information which includes protected information, the Commission shall respond by providing that person with any non-protected information requested, the "public disclosure" version of the protected information, and written notice that certain information has been withheld as alleged protected information not subject to public disclosure.

(3) Any person who is a party or intervenor in a docket or non-docket matter, other than the Consumers' Utility Counsel, and desires access to protected information submitted to the Commission pursuant to this rule, may petition the Commission for such access. A hearing shall be held to consider the request, at which time the affected party or utility shall have the burden of proving that the potential for economic harm to them outweighs the public benefit derived from allowing the party or intervenor access to such information.

(a) Any person who is granted access to protected information pursuant to paragraph (3) above, and the Consumer's Utility Counsel, shall be required to enter into a protective agreement with the affected party or utility which shall include, but not be limited to, the following terms:

1. Access to and use of the protected information shall be limited to matters relating to the docket or non-docket;

2. The protected information shall not be disclosed to any other person at any time unless such disclosure is required by an order of the Commission or a court of competent

jurisdiction or authorized by the affected party or utility;

3. The protected information shall not be copied or otherwise reproduced by the party or intervenor; 4. The agreement shall apply to all employees, attorneys, agents, and consultants of the party or intervenor;

5. Any other terms or conditions as are reasonable to insure the confidentiality of the protected information.

(4) The Commission, upon request by the party or intervenor and after being provided with an executed copy of the protective agreement, shall provide the party or intervenor with the number of copies of the protected information agreed upon in the protective agreement, which copies shall be returned to the Commission not later than forty-five (45) days after the conclusion of the docket or non-docket, or the conclusion of judicial appeals relating to the matter.

(5) Within thirty (30) days of compliance by parties or intervenors with the provision of paragraph 4 above requiring the return of the protected information to the Commission, the Commission shall return all copies of the protected information in its possession to the affected party or utility, and the affected party or utility must preserve and maintain a master copy of said protected information for a period of seven (7) years.

(6) The public disclosure version of the protected information shall be utilized in the course of an open docket or public hearing, if necessary; provided, however, that, if the Commission staff or any party determines that protected information must be utilized in the course of an open docket or public hearing, then they shall meet or confer with the affected party or utility in a good faith effort to accommodate such use, or make an appropriate motion before the Commission for such use.

(7) Any party or intervenor, the Commission staff, the Consumers' Utility Counsel, or the Commission on its own motion, may challenge the designation of information as a "trade secret" by filing a motion to that effect with the Commission. In such a case, the affected party or utility shall have the burden of proving that the information constitutes a trade secret. If, after a hearing and an in-camera inspection, the Commission determines that the information provided does not constitute a trade secret or only a portion of the information is a trade secret, or that the protected information must be disclosed in part or in whole in connection with any hearing, or otherwise, then the Commission shall issue an order to that effect, which order shall be automatically stayed for thirty (30) days from the date of the order.

(8) The Commission, its staffs, attorneys, agents, and consultants, shall not disclose any protected information except as authorized by the affected party or utility, by Commission order, by court order, or by these rules, and shall take all reasonable and necessary measures to maintain the confidentiality of the protected information.

Authority Ga. L. 1878-79, p. 125; 1907, pp. 72-81, 1922, pp. 142-147; 1975, pp. 404-412. **History.** Original Rule entitled "Trade Secrets" adopted F Oct 14, 1994, eff Nov 3, 1994